

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11158 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA sd/-
and
Hon'ble MR.JUSTICE N.G.NANDI sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

IMANBHAIHABIB-BHAI MALEK

Versus

MANAGER, O.N.G.C. P & A CAMBAY PROJECT

Appearance:

1. Special Civil Application No. 11158 of 2001
MR MTM HAKIM for Petitioner No. 1
MR AJAY R MEHTA for Respondent No. 1
Shri LR P00JARI, A.G.P.for Respondent No. 2
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CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 21/01/2002

1. Rule. Learned Counsel Shri Ajay Mehta waives service of Rule for Respondent No.1 - ONGC and learned A.G.P. Shri Pujari waives service of Rule for Respondent No.2. At the joint request of learned Counsel for the parties the matter is heard and disposed of today by this Court.

2. The petitioner is the owner of land bearing Block No.1212/1 and 1213 of village Padra. Out of the said land, the land admeasuring 113 Guntha was acquired on temporary acquisition by the respondent No.2 for respondent No.1 by initiating the proceeding on 23.8.1995 i.e. Land Acquisition Case No.14 of 1995.

3. From 25.4.1995 to 24.4.1996 the rent at the rate of Rs.3.20 per sq.mtrs. was paid to the petitioner including the damages towards loss of crop, etc. In 1998 it was decided that the said land was no more required, therefore, it was to be returned to the petitioner. For that claims and objections were invited. On 30.5.1998 upon notice issued in case No.1440 of 1996 the petitioner remained present for hearing of his claims and objections but without considering the same the Award came to be passed for damages suffered by the petitioner.

4. The main grievance made by the petitioner in this petition is that the respondents have not made the payment towards the rent for the period from 24.4.1996 to 30.5.1998 inspite of several representations/reminders made to them. Aggrieved by the inaction and delay on the part of the respondents in not paying the rent for a period of more than 2 years from 1996 to 1998 the petitioner has filed this petition and prayed that the respondents be directed to decide and pay the rent towards the said land at the earliest.

5. When this matter was first listed before another Division Bench on 11.12.2001 notice was made returnable on 28.12.2001. Accordingly the matter was placed on 28.12.2001 before another Division Bench and it was adjourned today. Though, duly served none of the respondent has filed any reply to this petition and controverted the averments made on oath in this petition.

6. Considering the averments made in the petition the prayer made in this petition is required to be granted. In fact the facts mentioned in the petition was not at all in dispute and both the learned Counsel Shri

Ajay Mehta for the respondent No.1 and Shri L.R.Poojari, learned A.G.P. for the respondent were unable to defend inaction of the respondent and they have not disputed the fact that the petitioner has not been paid the rent for the period from 1996 to 1998. The only contention which was tried to be raised by Shri Mehta was that in 1996 the respondent No.1 - ONGC had written to the respondent No.2 for surrendering the land to the petitioner, but the fact remains that the said land remained in possession of the ONGC till 31.5.1998, therefore, the petitioner is entitled for the rent for the period from 1996 to 1998 claimed in the petition.

7. Under the circumstances we allow this petition and direct the respondents to pay the rent as claimed in the petition to the petitioner from 28.3.1996 to 31.5.1998 at the rate of Rs.320/- per Are p.a. for the aforesaid period as early as possible and not later than 31.3.2002. Rule made absolute. However, there shall be no order as to costs.

sd/-

(B.J.Shethna, J.)

Date : January 21, 2002 sd/-

(N. G. Nandi, J.)

sas